

# **Policy for Forest Conservation Easement Modifications**

March 5, 2020

## **Process for Reviewing & Approving/Denying Modifications**

1. The following review and approval paths will apply to forest conservation easement modifications:
  - a. Expansion of an easement with no reduction to the easement can be reviewed and approved through the standard forest conservation review process
  - b. Less than 5,000 sq. ft. of modification to an easement of at least 15,000 sq. ft. in size can be reviewed and approved through the standard forest conservation review process
  - c. 5,000 sq. ft. or greater modification to an easement of at least 15,000 sq. ft. in size must be approved by the Planning Commission.
  - d. No modification will be permitted to reduce an easement to less than 10,000 sq. ft. in size if the easement is to remain.
2. The applicant will need to submit:
  - a. A new Forest Stand Delineation if the Forest Stand Delineation on record is more than 5 years old
  - b. A new Forest Conservation Plan identifying the proposed easement modification(s); the plan must demonstrate that the proposed modifications enhance or have no adverse effect on the conservation attributes of the property, public safety, and the public benefit
  - c. Information describing how the request meets one or more of the “Conditions and Circumstances Under Which an Easement Modification May Be Considered” and all applicable “Criteria for Approval of an Easement Modification” as listed below
  - d. A request to the Planning Commission for Forest Conservation Easement modification, for modifications requiring Planning Commission approval
3. Once a request requiring Planning Commission approval has been accepted and scheduled for Planning Commission review, the applicant must meet all Planning Commission hearing requirements.

## **Conditions and Circumstances Under Which an Easement Modification May Be Considered**

1. Expansion of an easement
2. Correction of oversight or error
3. Modification to address an environmental problem or public safety issue
4. Modification to accomplish a public benefit

## **Criteria for Approval of an Easement Modification**

1. The applicant must demonstrate that the modified easement will meet state and local forest conservation standards
2. In the case of a correction of an oversight or error, the applicant must demonstrate that an oversight or error exists in the recorded easement documents
3. In the case of a modification to address an environmental problem or public safety issue, the applicant must demonstrate existence and extent of the environmental or public safety issue
4. In the case of a modification to accomplish a greater public benefit, the applicant must demonstrate and quantify the public benefit that would result from the modification
5. In cases where a proposed modification would result in removal of a portion of the existing easement, the applicant must demonstrate that, in identifying the proposed solution, all potential options for retaining the easement intact were exhausted

6. In cases where a proposed modification would result in removal of a portion of the existing easement, the applicant must demonstrate that the mitigation proposed meets the requirements as calculated using the state Forest Conservation Worksheet and that the mitigation proposed follows the required sequence for mitigation as listed under Subtitle 45 of Article 7, Division IV of the City Code. A fee in lieu will only be considered as a last resort.
7. Proposals to completely remove or eliminate an easement will not be considered unless the existing easement is replaced with an on- or off-site easement of equivalent quality and of a size determined using the State Forest Conservation Worksheet.
8. Equivalent quality will be determined by the Department of Planning through a comparison of the existing and proposed easements, including the presence of priority forest, forest stand maturity, health, and species diversity, and the extent of non-native invasive vegetation.
9. No modification will be permitted to reduce an easement to less than 10,000 sq. ft. in size if the easement is to remain, and minimum dimensions must meet the standards established in the state Forest Conservation Technical Manual.

#### **Steps Following Approval of a Forest Conservation Easement Modification**

1. Submit a new draft record plat and draft easement agreement for approval. The agreement should cite any terms or conditions associated with approval by the Planning Commission.
2. Provide a draft bond for any on-site or off-site mitigation requirements approved by the Planning Commission and work with the Department of Planning to prepare a draft MOU defining the terms for completing the mitigation and releasing the bond.
3. Once the draft bond has been approved, execute the bond and associated MOU and provide the original to the Department of Planning.
4. Once the record plat and easement agreement have been approved by the Department of Planning, record the new plat and agreement with the Circuit Court for Baltimore City, Land Records & Licenses Division.
5. Satisfy all mitigation requirements required. Notify Department of Planning staff for inspections once mitigation has been installed and again before the two-year maintenance and establishment period concludes. Once all mitigation and maintenance requirements have been satisfied, the Department of Planning will arrange to release the bond.